

HOUSE BILL NO. 212

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Greenhalgh)

A BILL to amend and reenact §§ 16.1-77 and 18.2-76 of the Code of Virginia, relating to provision of abortion; right to informed consent.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-77 and 18.2-76 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of (i) any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, when the amount of such claim does not exceed \$4,500, exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees, and (ii) any action for injury to person, regardless of theory, and any action for wrongful death as provided for in Article 5 (§ 8.01-50 et seq.) of Chapter 3 of Title 8.01 when the amount of such claim does not exceed \$4,500, exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$50,000, exclusive of interest and any attorney fees. However, the jurisdictional limit shall not apply with respect to distress warrants under the provisions of § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of the

27 matter to the circuit court that has jurisdiction over the amended amount of the claim without requiring
28 that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes
29 of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause
30 shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10
31 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of
32 the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil
33 action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after
34 which time the case shall be removed from the pending docket of the transferring court and the order of
35 transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the
36 receiving court.

37 (2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does
38 not exceed \$25,000 exclusive of interest and any attorney fees.

39 (3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et
40 seq.) of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum
41 jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-
42 claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person
43 obligated on the lease or guarantee of such lease.

44 (4) Except where otherwise specifically provided, all jurisdiction, power and authority over any
45 civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue
46 of any provisions of the Code.

47 (5) Jurisdiction to try and decide suits in interpleader involving personal or real property where
48 the amount of money or value of the property is not more than the maximum jurisdictional limits of the
49 general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not
50 apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition
51 of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in
52 accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district
53 court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the

54 stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant
55 in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading
56 shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who
57 are not parties plaintiff.

58 (6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of
59 Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination
60 Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

61 (7) Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners'
62 Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et
63 seq.).

64 (8) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to
65 Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional
66 limits of the general district court. Any party that disagrees with an order by a general district court
67 granting an application to compel arbitration may appeal such decision to the circuit court pursuant to §
68 8.01-581.016.

69 (9) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

70 For purposes of this section, the territory served by a county general district court expressly
71 authorized by statute to be established in a city includes the general district court courtroom.

72 **§ 18.2-76. Informed written consent required.**

73 A. Before performing any abortion or inducing any miscarriage or terminating a pregnancy as
74 provided in § 18.2-72, 18.2-73, or 18.2-74, the physician or, if such abortion, induction, or termination is
75 to be performed pursuant to § 18.2-72, either the physician or the nurse practitioner authorized pursuant
76 to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination shall obtain the informed
77 written consent of the pregnant woman. However, if the woman has been adjudicated incapacitated by
78 any court of competent jurisdiction or if the physician or, if the abortion, induction, or termination is to be
79 performed pursuant to § 18.2-72, either the physician or the nurse practitioner authorized pursuant to
80 clause (ii) of § 18.2-72 to perform such abortion, induction, or termination knows or has good reason to

81 believe that such woman is incapacitated as adjudicated by a court of competent jurisdiction, then only
82 after permission is given in writing by a parent, guardian, committee, or other person standing in loco
83 parentis to the woman, may the physician or, if the abortion, induction, or termination is to be performed
84 pursuant to § 18.2-72, either the physician or the nurse practitioner authorized pursuant to clause (ii) of §
85 18.2-72 to perform such abortion, induction, or termination perform the abortion or otherwise terminate
86 the pregnancy.

87 B. For purposes of this section:

88 "Informed written consent" means the knowing and voluntary written consent to abortion by a
89 pregnant woman of any age, without undue inducement or any element of force, fraud, deceit, duress, or
90 other form of constraint or coercion by the physician or authorized nurse practitioner who is to perform
91 the abortion or his agent. The basic information to effect such consent, as required by this subsection, shall
92 be provided by telephone or in person before the abortion by the physician or authorized nurse practitioner
93 who is to perform the abortion, by a referring physician or nurse practitioner, or by a licensed professional
94 or practical nurse working under the direct supervision of either the physician or authorized nurse
95 practitioner who is to perform the abortion or the referring physician or nurse practitioner; however, the
96 information in subdivision 5 may be provided instead by a licensed health care professional working under
97 the direct supervision of either the physician or authorized nurse practitioner who is to perform the
98 abortion or the referring physician or nurse practitioner. This basic information shall include:

99 1. A full, reasonable, and comprehensible medical explanation of the nature, benefits, and risks of
100 and alternatives to the proposed procedures or protocols to be followed in her particular case;

101 2. An instruction that the woman may withdraw her consent at any time prior to the performance
102 of the procedure;

103 3. An offer for the woman to speak with the physician or authorized nurse practitioner who is to
104 perform the abortion so that he may answer any questions that the woman may have and provide further
105 information concerning the procedures and protocols;

106 4. A statement of the probable gestational age of the fetus at the time the abortion is to be performed
107 and that fetal ultrasound imaging may be performed prior to the abortion to confirm the gestational age at
108 the woman's request; and

109 5. An offer to review the printed materials described in subsection D. If the woman chooses to
110 review such materials, they shall be provided to her in a respectful and understandable manner, without
111 prejudice and intended to give the woman the opportunity to make an informed choice and shall be
112 provided to her before the abortion. This offer for the woman to review the material shall advise her of
113 the following: (i) the Department of Health publishes printed materials that describe the unborn child and
114 list agencies that offer alternatives to abortion; (ii) medical assistance benefits may be available for
115 prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such
116 assistance is contained in the printed materials published by the Department of Health; (iii) the father of
117 the unborn child is liable to assist in the support of her child, even in instances where he has offered to
118 pay for the abortion, that assistance in the collection of such support is available, and that more detailed
119 information on the availability of such assistance is contained in the printed materials published by the
120 Department of Health; (iv) she has the right to review the materials printed by the Department of Health
121 and that copies will be provided to her free of charge if she chooses to review them; and (v) a statewide
122 list of public and private agencies and services that provide ultrasound imaging and auscultation of fetal
123 heart tone services free of charge. Where the woman has advised that the pregnancy is the result of a rape,
124 the information in clause (iii) may be omitted. The information required by this subdivision may be
125 provided in person or by mail if requested by the woman.

126 C. The physician or authorized nurse practitioner need not obtain the informed written consent of
127 the woman when the abortion is to be performed pursuant to a medical emergency or spontaneous
128 miscarriage. "Medical emergency" means any condition that, on the basis of the physician or authorized
129 nurse practitioner's good faith clinical judgment, so complicates the medical condition of a pregnant
130 woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay
131 will create a serious risk of substantial and irreversible impairment of a major bodily function.

132 D. The Department of Health shall publish, in English and in each language that is the primary
133 language of two percent or more of the population of the Commonwealth, the following printed materials
134 in such a way as to ensure that the information is easily comprehensible:

135 1. Geographically indexed materials designed to inform the woman of public and private agencies
136 and services available to assist a woman through pregnancy, upon childbirth, and while the child is
137 dependent, including, information on services relating to (i) adoption as a positive alternative; (ii)
138 information relative to counseling services, benefits, financial assistance, medical care, and contact
139 persons or groups; (iii) paternity establishment and child support enforcement; (iv) child development; (v)
140 child rearing and stress management; (vi) pediatric and maternal health care; and (vii) public and private
141 agencies and services that provide ultrasound imaging and auscultation of fetal heart tone services free of
142 charge. The materials shall include a comprehensive list of the names and telephone numbers of the
143 agencies, or, at the option of the Department of Health, printed materials including a toll-free, 24-hour-a-
144 day telephone number that may be called to obtain, orally, such a list and description of agencies in the
145 locality of the caller and of the services they offer;

146 2. Materials designed to inform the woman of the probable anatomical and physiological
147 characteristics of the human fetus at two-week gestational increments from the time when a woman can
148 be known to be pregnant to full term, including any relevant information on the possibility of the fetus's
149 survival and pictures or drawings representing the development of the human fetus at two-week
150 gestational increments. Such pictures or drawings shall contain the dimensions of the fetus and shall be
151 realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective,
152 nonjudgmental, and designed to convey only accurate scientific information about the human fetus at the
153 various gestational ages; and

154 3. Materials containing objective information describing the methods of abortion procedures
155 commonly employed, the medical risks commonly associated with each such procedure, the possible
156 detrimental psychological effects of abortion, and the medical risks commonly associated with carrying a
157 child to term.

